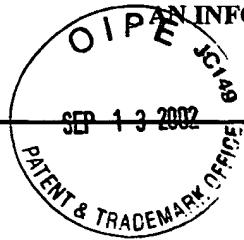


**TRANSMITTAL OF APPEAL BRIEF (Large Entity)**Docket No.  
112857-111

In Re Application Of: Kamachi et al.

Serial No.  
09/939,064Filing Date  
09/29/97Examiner  
T. NguyenGroup Art Unit  
2174Invention: **IMAGE DISPLAY PROCESSING APPARATUS, AN IMAGE DISPLAY PROCESSING METHOD, AND  
AN INFORMATION PROVIDING MEDIUM****RECEIVED**

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TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on July 10, 2002.

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The fee for filing this Appeal Brief is: \$320.00

- ☒ A check in the amount of the fee is enclosed.
- ☐ The Commissioner has already been authorized to charge fees in this application to a Deposit Account. A duplicate copy of this sheet is enclosed.
- ☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 02-1818  
A duplicate copy of this sheet is enclosed.

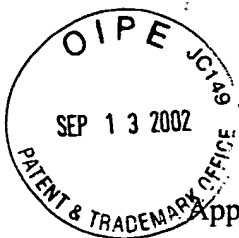
  
SignatureDated: September 10, 2002Jeffrey H. Canfield, Esq. (38,404)  
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Telephone: (312) 807-4233I certify that this document and fee is being deposited  
on Sept. 10, 2002 with the U.S. Postal Service as  
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Assistant Commissioner for Patents, Washington, D.C.  
20231.

Signature of Person Mailing Correspondence

Robert J. Buccieri

Typed or Printed Name of Person Mailing Correspondence

cc:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

#33  
1 of 3

Appellant: Kamachi et al. )  
Serial No.: 08/99/939,064 )  
Title: IMAGE DISPLAY PROCESSING ) Examiner: Thomas T. Nguyen  
APPARATUS, AN IMAGE DISPLAY )  
PROCESSING METHOD, AND AN )  
INFORMATION PROVIDING ) Group Art Unit: 2174  
MEDIUM )  
Filing Date: September 29, 1997 )

Docket No.: 112857-111

Assistant Commissioner for Patents  
Washington D.C. 20231

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**APPELLANTS' APPEAL BRIEF**

Dear Sir:

This Appeal Brief is submitted pursuant to the Notice of Appeal submitted on July 10, 2002, in the above-identified patent application.

**I. REAL PARTY IN INTEREST**

Sony Corporation is the real party in interest of the above-identified patent application by virtue of an Assignment executed on December 12, 1997 and recorded at the United States Patent and Trademark Office on Reel 9019 Frame 0038.

**II. RELATED APPEALS AND INTERFERENCES**

To the best of Appellant's knowledge there are no pending appeals or interferences that will directly affect, have a bearing on, or that will be directly affected by, the Board's decision with respect to the above-identified Appeal.

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### **III. STATUS OF THE CLAIMS**

Claims 1-12 are pending in the Application. A copy of the appealed claims is attached in the Appendix. Claims 1, 2, 5-7 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,621,904 to Elliott et al. in view of U.S. Patent No. 5,771,042 to Santos-Gomez. Claims 3-6, 8, 9, 11, and 12 stand rejected under 35 U.S.C. as being unpatentable over Elliott et al. in view of Santos-Gomez in view of U.S. Patent No. 5,880,731 to Liles et al. A copy of the Final Office Action and the prior art on which the rejection was based are included in the Supplemental Appendix.

### **IV. STATUS OF THE AMENDMENTS**

There are no non-entered Amendments. The last Amendment entered in the application was a Preliminary Amendment filed along with a request for a Continued Prosecution Application on June 29, 2001. No Amendment after Final was filed.

### **V. SUMMARY OF THE INVENTION**

The present invention relates to an image display apparatus, an image display method and an information providing medium for providing a computer program to be executed by an image display apparatus. The apparatus, method, and the program stored on the information providing medium are provided for displaying a main window and a sub-window within a single display window, wherein the main window displays primary information and the sub-window displays accompanying information related to the information in the main window.

In a preferred embodiment of the invention the main window displays a 3-dimensional virtual reality space while the sub-window displays the contents of a electronic chat session between user's whose avatars (Electronic Alter Egos of the User's) inhabit the virtual space (page 82 lines 9-19, Fig. 27). In general the sub-window is smaller than the main window. The user may adjust the size of the sub-window, but the size of the sub-window remains independent of the main window. The main window and the sub-window (also referred to as a multi-user window) may be moved about the user's display window by the "drag-and-drop" method common to many graphical user interfaces. When the user repositions the multi-user window next to the main window, the horizontal distance "L" between adjacent vertical sides of the main

window and the sub-window is determined and compared with a predetermined reference value  $L_R$ . If the measured distance  $L$  is equal to or less than the reference distance  $L_R$ , the sub-window is automatically repositioned such that the distance  $L$  becomes 0 and the two vertical sides of the main window and the sub-window are immediately adjacent one another. If, on the other hand, the distance  $L$  is greater than the reference value  $L_R$ , the sub-window is displayed at the position it was "dropped" upon the completion of the drag-and-drop operation.

A similar vertical readjustment also takes place automatically. If the user repositions the sub-window to a position where the distance  $H$  between the upper (or lower) edge of the main window and the upper (or lower) edge of the sub-window is less than or equal to a predetermined reference value  $H_R$ , then the sub-window is automatically re-positioned so that the upper (or lower) edge of the sub-window is vertically aligned with the upper (or lower) edge of the main window. Otherwise, the vertical position of the sub-window is left unchanged. If the sub-window is located above or below the main window and the distance  $H$  is less than or equal to the reference value  $H_R$  the sub-window will be re-positioned vertically such that the bottom edge of the sub-window is immediately adjacent the top edge of the main window, or the top edge of the sub-window is moved into adjacent contact with the bottom edge of the main window. Horizontally, when the sub-window is positioned above or below the main window, and the distance  $L$  is less than the reference value  $L_R$  the right (or left) edge of the sub-window will be brought into vertical alignment with the right (or left) vertical edge of the main window.

During the course of any such vertical or horizontal repositioning of the sub-window relative to the main window, the size and dimensions of the sub-window remain independent of the size and dimensions of the main window. (Page 82 line 9 – Page 86 line 6, Figs. 27-31.)

## **VI. ISSUE**

Was it proper to combine the teaching of Santos-Gomez with that of Elliott et al. to reject the pending claims under 35 U.S.C. §103?

## **VII. GROUPING OF THE CLAIMS**

All of the claims may be grouped together. All claims stand or fall together.

## VIII. ARGUMENT

It was improper to combine the teaching of Santos-Gomez with that of Elliott et al. to reject the pending claims under 35 U.S.C. §103.

### A. Legal Standards for Determining Obviousness Under 35 U.S.C. §103.

35 U.S.C. §103(a) states that:

A patent may not be obtained.... if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

In making a determination that an invention is obvious, the Patent Office has the initial burden of establishing a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). "If the examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of the patent." *In re Oetiker*, 24 U.S.P.Q. 2d 1443, 1444 (Fed. Cir. 1992). The Court of Appeals for the Federal Circuit has stated that the foundation facts for a *prima facie* case of obviousness are:

(1) the scope and content of the prior art; (2) the difference between the prior art and the claimed invention; and (3) the level of ordinary skill in the art...Moreover, objective indicia such as commercial success and long felt need are relevant to the determination of obviousness....Thus, each obviousness determination rests on its own facts.

*In re Mayne*, 41 U.S.P.Q. 2d 1451, 1453 (Fed. Cir. 1997).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference or references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Fine*, 837 F.2d 1071, 5, USPQ2d 1596 (Fed. Cir. 1988). Second there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986) Finally, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ, 580 (CCPA 1974).

- B. Patent No. 5,771,042 to Santos-Gomez may not be properly combined with Patent No. 5,621,904 to Elliott et al. because not only is their no teaching or suggestion to combine within the references themselves, but the references actually teach away from making such a combination.

Elliott et al. teach a “Method and Apparatus for Avoiding Overlapped Windows and a Gutter Space.” The method and the apparatus taught by Elliott et al. involve the display of a main window and a sub window on a computer monitor (see Figs. 1 and 2). Specifically, the invention of Elliot et al. deals with the problem of overlapping display windows when a dialog box, or “child window” is opened from a main or “parent” window. Typically, according to Elliot et al., a child window will be opened at a predefined designated position on a computer display regardless of the position and contents of the parent window. Often the newly opened child window will be located in front of the parent window, obscuring important information disclosed in the parent. Elliot et al. teach a method and apparatus for determining whether sufficient space exists between an edge of the parent window and the borders of the display to accommodate the child window. If so, the child window is automatically displayed in the margin between the edge of the parent window and the border of the display. If space allows, a gutter region is created between the parent window and the child window. As the Examiner correctly points out in the most recent office action, the size of the child window remains independent of the dimensions of the parent window. It must be noted, however, that Elliot et al.’s invention is entirely geared toward placing the child window away from the parent window, as opposed to moving the two closer together.

Santos-Gomez, on the other hand, teaches a “Multi-Size Control for Multiple Adjacent Workspaces.” As can be seen in Figs. 4 and 5, Santos-Gomez teaches a plurality of work spaces (windows) that may be moved about a screen relative to one another. The multi-size controller includes a “snap region,” the operation of which is described in column 5 lines 47-53. Santos-Gomez states that the workspaces may snap together when their borders are moved to a sufficiently close proximity. As shown for example in Figs. 2 and 3 when the workspace 34 is dragged so that its top border is within the snap region 38, the adjacent workspaces are connected and a “single size control separator 37” is created. As is best seen in Fig. 6, the single size control separator 37 may be used to adjust the relative sizes of the various work spaces simultaneously. In other words, the height and width of the various windows that are adjacent

one another when the work areas are snapped into place are no longer independent, but rather are collectively controlled by the single size control separator 37.

Thus, the inventions of Elliott et al. and Santos-Gomez differ in two mutually exclusive ways which are key to the present invention. First, Elliot et al. teach placing parent and child windows away from one another, whereas Santos-Gomez teaches moving separated windows together. Second, Elliot et al. teach a parent window and a child window where the dimensions of the child window remain independent of the dimensions of the parent. Santos-Gomez on the other hand teaches a single size control separator which collectively governs the size of all of the windows that have been snapped together. These opposite teachings of the cited references preclude the combination suggested by the Examiner. One of ordinary skill in the art would not have looked to Santos-Gomez to solve a perceived problem in separating the child window from the parent window. Nor would one of ordinary skill looked to the independently sized child window of Elliot et al. to correct problems of the single size control separator created when one or more display areas are joined as taught by Santos-Gomez.

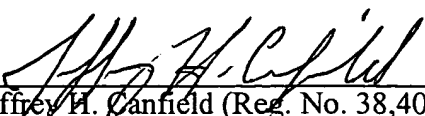
Because these two references teach away from making the combination suggested by the Examiner, the claims of the present application would not have been obvious to one of ordinary skill in the art in view of Elliot et al. and Santos-Gomez. To hold otherwise would amount to picking and choosing various aspects of each reference without consideration of the overall teaching of the references. This amounts to impermissible hindsight, using the Applicants' claims as a template to pick and choose various features of the prior art references without regard to how the different features would fit together or the impact that combining such features would have on the underlying inventions disclosed in each reference. For these reasons, the cited combination would not have rendered the claimed invention obvious to one of ordinary skill in the art, and the claims should be allowed.

## **IX     CONCLUSION**

There is no teaching or suggestion within the Santos-Gomez and Elliot et al. references., references nor within the general knowledge of those skilled in the art that would have led one skilled in the art to combine the two references in the manner suggested by the Examiner. Accordingly, the Patent Office has failed to overcome its *prima facie* burden for rejecting the

claims under 35 U.S.C. §103(a). In light of the Patent Office's failure to establish *prima facie* obviousness, Appellant respectfully submits that the rejection of pending Claims 1-64 as being obvious is an error in law and in fact and should therefore be reversed by this Board.

Respectfully submitted,

  
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ATTORNEYS FOR APPELLANTS



## APPENDIX

### CLAIMS:

1. (Amended) An image display processing apparatus for displaying in a single display window a main window for displaying main information and a sub window for displaying accompanying information associated with said main information, said sub window having a height and width independent of a height and width of said main window, the image display processing apparatus comprising:

a display position moving means for moving said sub window from a first position, at which said sub window is initially displayed, to a user-specified position; and

an automatic arrangement changing means for automatically moving said sub window to a position adjacent to said main window when said user-specified position is such that a distance between said sub window and said main window is less than a preset predetermined value, with the height and width of the sub-window remaining independent of the height and width of the main window.

2. (Amended) The image display processing apparatus according to claim 1, wherein, when said user-specified position is such that a vertical distance between an upper side of said sub-window and an upper side of said main window is less than said preset predetermined value, said automatic arrangement changing means moves said sub window such that the upper side of said sub window comes into alignment with an upper side of said main window.

3. The image display processing apparatus according to claim 1, wherein:  
said main window displays a three-dimensional virtual reality space image corresponding to three-dimensional graphics data; and

said sub window displays content of a chat performed via an avatar, which is an alter ego of a user and movable within said three-dimensional virtual reality space.

4. The image display processing apparatus according to claim 3, wherein said three-dimensional graphics data is described in VRML (Virtual Reality Modeling Language).

5. (Amended) An image display processing method for displaying in a single display window a main window for displaying main information and a sub window for displaying accompanying information associated with said main information, comprising the steps of:

moving said sub window from a first position, at which said sub window is initially displayed, to a user-specified position; and

automatically moving said sub window to a position adjacent to said main window without altering a height or a width of said sub window when said sub window is separated from said main window by a distance less than a preset predetermined value when in said user-specified position.

6. (Amended) An information providing medium for providing a computer program to be executed by an image display processing apparatus for displaying in a single display window a main window for displaying main information and a sub window for displaying accompanying information associated with said main information, said computer program comprising the steps of:

moving said sub window from a first position, at which said sub window is initially displayed, to a user-specified position; and

automatically moving said sub window to a position adjacent to said main window without altering a height or a width of said sub window when said sub window is separated from said main window by a distance less than a preset predetermined value when in said user specified position.

7. (Amended) The image display processing method according to claim 5, wherein, when said user-specified position is such that a vertical distance between an upper side of said sub window and an upper side of said main window is less than said preset predetermined value said automatic movement step comprises moving said sub window such that an upper side thereof comes into alignment with an upper side of said main window.

8. The image display processing method according to claim 5, wherein said main window displays a three-dimensional virtual reality space image corresponding to three-dimensional graphics data, and;

said sub window displays content of a chat performed via an avatar, which is an alter ego of a user and movable within said three-dimensional virtual reality space.

9. The image display processing method according to claim 8, wherein said three-dimensional graphics data is described in VRML (Virtual Reality Modeling Language).

10. (Amended) The image providing medium according to claim 6, wherein, when said user-specified position is such that a vertical distance between an upper side of said sub window and an upper side of said main window is less than said preset predetermined value said automatic movement step comprises moving said sub window such that an upper side of said sub window comes into alignment with an upper side of said main window.

11. The image providing medium according to claim 6, wherein:  
said main window displays a three-dimensional virtual reality space image corresponding to three-dimensional graphics data; and  
said sub window displays content of a chat performed via an avatar, which is an alter ego of a user and movable within said three-dimensional virtual reality space.

12. The image providing medium according to claim 11, wherein said three-dimensional graphics data is described in VRML (Virtual Reality Modeling Language).

## **SUPPLEMENTAL APPENDIX**

**Exhibit A:** Final Office Action (Mailed on April 10, 2002)

**Exhibit B:** U.S. Patent No. 5,621,904 (Elliott et al.)

**Exhibit C:** U.S. Patent No.5,771,042 (Santos-Gomez )

**Exhibit D:** U.S. Patent No.5,880,731 (Liles et al.)